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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,893	07/23/2001	Jose Walter		3549

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Hendricks and Associates
P.O. Box 2509
Fairfax, VA 22031-2509

EXAMINER

PATEL, YOGESH P

ART UNIT	PAPER NUMBER
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3732

MAIL DATE	DELIVERY MODE
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08/02/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/909,893	Applicant(s) WALTER, JOSE	
	Examiner YOGESH PATEL	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/15/2010 has been entered.

Claim Objections

2. Claims 23 and 28 are objected to because of the following informalities: Delete “the” from limitation “opens to **the** said superior surface” in line 4.
A period (.) is missing in claim 28. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 24-26, 28-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim limitation “hinge means parts” as recited in claims 24, 26 uses the phrase “means for” or “step for”, but it is modified by some structure, material, or acts recited in the claim. It is unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would

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preclude application of 35 U.S.C. 112, sixth paragraph, because it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph.

If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase “means for” or “step for” is clearly **not** modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does **not** wish to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase “means for” or “step for”).

4. Regarding claims 25, 28 Applicant asserts that the claim element “closure means” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, it is unclear whether the claim element is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph, because no function is claimed.

5. Regarding claim 29 Applicant asserts that the claim element “hinge means” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, it is unclear whether the claim element is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph, because no function is claimed.

If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to:

(a) Amend the claim to include the phrase “means for” or “step for” in accordance with these guidelines: the phrase “means for” or “step for” must be modified by functional

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language and the phrase must **not** be modified by sufficient structure, material, or acts for performing the claimed function; or

(b) Show that the claim limitation is written as a function to be performed and the claim does **not** recite sufficient structure, material, or acts for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph. For more information, see MPEP § 2181.

6. Further, the limitation as recited in claim 29 " each said tray having a superior surface from which said opening descends from said superior surface said opening continuously tapering as it extends from said superior surface so that said opening is widest at the point where said opening opens to the said superior surface" is confusing and grammatically awkward.

7. Regarding claim 28, the claim is indefinite because there is not antecedent basis for "said wider opening." Further, according to the specification, the opening is narrower towards the bottom. Please clarify.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roeser (2,619,725) in view of Cho (5,622,497).

Roeser discloses an articulator (figure 3) including at least one opening for accepting molding material, the tray having a superior surface (e.g. top surface) from which the opening extends downward, the opening having continuously tapering sides (see figure 1) so that the opening is wider at the point where the opening opens to the superior surface of the tray, the tray also having projections 20 extending upward from the superior surface of the tray.

Roeser fails to disclose the opening having repeating wider and narrower regions. Cho teaches a dental articulator having an opening (e.g. 44, figure 2) having repeating wider and narrower regions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Roeser by providing the opening as claimed as taught by Cho for precisely positioning dental impressions/casts and/or to easily remove them. Regarding claim 24, Roeser fails to disclose the ball and socket mechanism. Cho however teaches such mechanism (figure 6). Furthermore, the ball/socket mechanisms in dental articulator are old and well-known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Roeser by providing the ball/joint mechanism as taught by Cho in order to easily manipulate the articulator.

9. Claim 29 is rejected as best understood under 35 U.S.C. 103(a) as being unpatentable over Callne (5,506,095) in view of Roeser.

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Callne discloses a dental articulator (figures 1-8) including An articulator comprising two articulator trays 104, a first tray and a second tray, each tray having at least one opening for accepting molding material, each said tray having repeating wider and narrower regions, each said tray having a superior surface from which said opening descends from said superior surface, each the tray also having a two extensions 60, 64, wherein one extension has a ball portion 76 and the other extension has a socket 77 portion such that the ball and socket of the first tray acts as reciprocating hinge with ball and socket portions of the second tray.

Callne fails to disclose the opening continuously tapering as it extends from said superior surface. However, Roeser teaches such tapering as mentioned above. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Callne by providing the tapering as claimed as taught by Roeser in order to easily remove the dental impression/cast from the opening.

Response to Arguments

10. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOGESH PATEL whose telephone number is (571)270-3646. The examiner can normally be reached on 8:00 to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YOGESH PATEL/
Examiner, Art Unit 3732

/Ralph A. Lewis/
Primary Examiner, Art Unit 3732